

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1060 Session of
2007

INTRODUCED BY VANCE, EARLL, WONDERLING, O'PAKE, FERLO, FOLMER,
PUNT, COSTA, ORIE, TOMLINSON, RAFFERTY AND BAKER,
SEPTEMBER 5, 2007

REFERRED TO VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS,
SEPTEMBER 5, 2007

AN ACT

1 Amending Titles 35 (Health and Safety) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, establishing a system for the use of volunteer
4 health practitioners; providing reasonable safeguards to
5 assure that health practitioners are appropriately licensed
6 and regulated to protect the public's health; providing for
7 applicability of workers' compensation and occupational
8 disease law; and providing for limitation of civil damages.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Title 35 of the Pennsylvania Consolidated
12 Statutes is amended by adding a chapter to read:

13 CHAPTER 74

14 UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS

15 Sec.

16 7401. Short title of chapter.

17 7402. Definitions.

18 7403. Applicability to volunteer health practitioners.

19 7404. Regulation of services during emergency.

20 7405. Volunteer health practitioner registration systems.

1 7406. Recognition of volunteer health practitioners licensed
2 in other states.

3 7407. No effect on credentialing and privileging.

4 7408. Provision of volunteer health or veterinary services;
5 administrative sanctions.

6 7409. Relation to other laws.

7 7410. Regulatory authority.

8 7411. Limitations on civil liability for volunteer health
9 practitioners.

10 7412. Workers' compensation coverage.

11 7413. Uniformity of application and construction.

12 § 7401. Short title of chapter.

13 This chapter shall be known and may be cited as the Uniform
14 Emergency Volunteer Health Practitioners Act.

15 § 7402. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Department." The Department of Health of the Commonwealth.

20 "Disaster relief organization." An entity that provides
21 emergency or disaster relief services that include health or
22 veterinary services provided by volunteer health practitioners
23 and that:

24 (1) is designated or recognized as a provider of those
25 services pursuant to a disaster response and recovery plan
26 adopted by an agency of the Federal Government or the
27 Pennsylvania Emergency Management Agency; or

28 (2) regularly plans and conducts its activities in
29 coordination with an agency of the Federal Government or the
30 Pennsylvania Emergency Management Agency.

1 "Emergency." An event or condition that is a disaster or
2 disaster emergency.

3 "Emergency declaration." A declaration of emergency issued
4 by a person authorized to do so under the laws of this
5 Commonwealth.

6 "Emergency Management Assistance Compact." The interstate
7 compact approved by Congress by Public Law 104-321, 110 Stat.
8 3877 and set forth in section 7601 (relating to compact
9 enacted).

10 "Entity." A person other than an individual.

11 "Health facility." An entity licensed under the laws of this
12 Commonwealth or another state to provide health or veterinary
13 services.

14 "Health practitioner." An individual licensed under the laws
15 of this Commonwealth or another state to provide health or
16 veterinary services.

17 "Health services." The provision of treatment, care, advice
18 or guidance, of other services or of supplies, related to the
19 health or death of individuals or human populations, to the
20 extent necessary to respond to an emergency, including:

21 (1) the following, concerning the physical or mental
22 condition or functional status of an individual or affecting
23 the structure or function of the body:

24 (i) preventive, diagnostic, therapeutic,
25 rehabilitative, maintenance or palliative care; and

26 (ii) counseling, assessment, procedures or other
27 services;

28 (2) sale or dispensing of a drug, a device, equipment or
29 another item to an individual in accordance with a
30 prescription; and

1 (3) funeral, cremation, cemetery or other mortuary
2 services.

3 "Host entity." An entity operating in this Commonwealth
4 which uses volunteer health practitioners to respond to an
5 emergency.

6 "License." Authorization by a state to engage in health or
7 veterinary services that are unlawful without the authorization.
8 The term includes authorization under the laws of this
9 Commonwealth to an individual to provide health or veterinary
10 services based upon a national certification issued by a public
11 or private entity.

12 "Person." Any individual, corporation, business trust,
13 trust, partnership, limited liability company, association,
14 joint venture, public corporation, government or governmental
15 subdivision, agency or instrumentality or any other legal or
16 commercial entity.

17 "Scope of practice." The extent of the authorization to
18 provide health or veterinary services granted to a health
19 practitioner by a license issued to the health practitioner in
20 the state in which the principal part of the health
21 practitioner's services are rendered, including any conditions
22 imposed by the licensing authority.

23 "State." A state of the United States, the District of
24 Columbia, Puerto Rico, the Virgin Islands or any territory or
25 insular possession subject to the jurisdiction of the United
26 States.

27 "Veterinary services." The provision of treatment, care,
28 advice or guidance or other services or of supplies, related to
29 the health or death of an animal or to animal populations, to
30 the extent necessary to respond to an emergency, including:

1 (1) diagnosis, treatment or prevention of an animal
2 disease, injury or other physical or mental condition by the
3 prescription, administration or dispensing of vaccine,
4 medicine, surgery or therapy;

5 (2) use of a procedure for reproductive management; and

6 (3) monitoring and treatment of animal populations for
7 diseases that have spread or demonstrate the potential to
8 spread to humans.

9 "Volunteer health practitioner." A health practitioner who
10 provides health or veterinary services, whether or not the
11 health practitioner receives compensation for those services.
12 The term does not include a health practitioner who receives
13 compensation pursuant to a preexisting employment relationship
14 with a host entity or affiliate which requires the health
15 practitioner to provide health services in this Commonwealth,
16 unless the health practitioner is not a resident of this
17 Commonwealth and is employed by a disaster relief organization
18 providing services in this Commonwealth while an emergency
19 declaration is in effect.

20 § 7403. Applicability to volunteer health practitioners.

21 This chapter applies to volunteer health practitioners
22 registered with a registration system that complies with section
23 7405 (relating to volunteer health practitioner registration
24 systems) and who provide health or veterinary services in this
25 Commonwealth for a host entity while an emergency declaration is
26 in effect.

27 § 7404. Regulation of services during emergency.

28 (a) Authorization.--When an emergency declaration is in
29 effect, the agency or the department may limit, restrict or
30 otherwise regulate:

1 (1) the duration of practice by volunteer health
2 practitioners;

3 (2) the geographical areas in which volunteer health
4 practitioners may practice;

5 (3) the types of volunteer health practitioners who may
6 practice; and

7 (4) any other matters necessary to coordinate
8 effectively the provision of health or veterinary services
9 during the emergency.

10 (b) Procedure.--An order issued under subsection (a) may
11 take effect immediately, without prior notice or comment, and is
12 not a regulation within the meaning of:

13 (1) the act of July 31, 1968 (P.L.769, No.240), referred
14 to as the Commonwealth Documents Law;

15 (2) the act of October 15, 1980 (P.L.950, No.164), known
16 as the Commonwealth Attorneys Act; or

17 (3) the act of June 25, 1982 (P.L.633, No.181), known as
18 the Regulatory Review Act.

19 (c) Host entities.--A host entity that uses volunteer health
20 practitioners to provide health or veterinary services in this
21 Commonwealth shall:

22 (1) consult and coordinate its activities with the
23 agency and the department to the extent practicable to
24 provide for the efficient and effective use of volunteer
25 health practitioners; and

26 (2) comply with any law other than this chapter relating
27 to the management of emergency health or veterinary services.

28 § 7405. Volunteer health practitioner registration systems.

29 (a) Qualifications.--To qualify as a volunteer health
30 practitioner registration system, a system must:

1 (1) accept applications for the registration of
2 volunteer health practitioners before or during an emergency;

3 (2) include information about the licensure and good
4 standing of volunteer health practitioners which is
5 accessible by authorized persons;

6 (3) be capable of confirming the accuracy of information
7 concerning whether a health practitioner is licensed and in
8 good standing before health services or veterinary services
9 are provided under this chapter; and

10 (4) meet one of the following conditions:

11 (i) be an emergency system for advance registration
12 of volunteer health practitioners established by a state
13 and funded through the Health Resources Services
14 Administration under section 319I of the Public Health
15 Service Act (58 Stat. 682, 42 U.S.C. § 247d-7b);

16 (ii) be a local unit consisting of trained and
17 equipped emergency response, public health and medical
18 personnel formed pursuant to section 2801 of the Public
19 Health Service Act (42 U.S.C. § 300hh);

20 (iii) be operated by a:

21 (A) disaster relief organization;

22 (B) licensing board;

23 (C) national or regional association of
24 licensing boards or health practitioners;

25 (D) health facility that provides comprehensive
26 inpatient and outpatient health care services,
27 including a tertiary care and teaching hospital; or

28 (E) governmental entity; or

29 (iv) be designated by the agency as a registration
30 system for purposes of this chapter.

1 (b) Confirmation.--When an emergency declaration is in
2 effect, the agency, a person authorized to act on behalf of the
3 agency or a host entity may confirm whether volunteer health
4 practitioners utilized in this Commonwealth are registered with
5 a registration system that complies with subsection (a).
6 Confirmation is limited to obtaining identities of the volunteer
7 health practitioners from the system and determining whether the
8 system indicates that they are licensed and in good standing.

9 (c) Notice.--Upon request of a person in this Commonwealth
10 authorized under subsection (b) or a similarly authorized person
11 in another state, a registration system located in this
12 Commonwealth shall notify the person of the identities of
13 volunteer health practitioners and whether they are licensed and
14 in good standing.

15 (d) Effect.--A host entity is not required to use the
16 services of a volunteer health practitioner even if the health
17 practitioner is registered with a registration system that
18 indicates that the health practitioner is licensed and in good
19 standing.

20 § 7406. Recognition of volunteer health practitioners licensed
21 in other states.

22 (a) Practice allowed.--When an emergency declaration is in
23 effect, a volunteer health practitioner, registered with a
24 registration system that complies with section 7405 (relating to
25 volunteer health practitioner registration systems) and licensed
26 and in good standing in the state upon which the health
27 practitioner's registration is based, may practice in this
28 Commonwealth to the extent authorized by this chapter as if the
29 health practitioner were licensed in this Commonwealth.

30 (b) Exception.--A volunteer health practitioner qualified

under subsection (a) is not entitled to the protections of this chapter if the health practitioner is licensed in more than one state and any license of the health practitioner:

(1) is suspended, revoked or subject to an agency order limiting or restricting practice privileges; or

(2) has been voluntarily terminated under threat of sanction.

§ 7407. No effect on credentialing and privileging.

(a) (Reserved).

(b) General rule.--This chapter does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Credentialing." Obtaining, verifying and assessing the qualifications of a health practitioner to provide treatment, care or services in or for a health facility.

"Privileging." The authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status and specialized skill.

§ 7408. Provision of volunteer health or veterinary services; administrative sanctions.

(a) Scope of practice.--Subject to subsections (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed health practitioner

established by the licensing provisions, practice acts or other laws of this Commonwealth.

(b) Outside scope of practice.--Except as otherwise provided in subsection (c), this chapter does not authorize a volunteer health practitioner to provide services that are outside the health practitioner's scope of practice, even if a similarly licensed health practitioner in this Commonwealth would be permitted to provide the services.

(c) Department authority.--The department may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to this chapter. An order under this subsection may take effect immediately, without prior notice or comment, and is not a regulation within the meaning of:

(1) the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law;

(2) the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act; or

(3) the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(d) Host entity authority.--A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide pursuant to this chapter.

(e) Unauthorized practice defined.--A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification or restriction under this section or that a similarly licensed health practitioner in this Commonwealth would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification or restriction or

1 that a similarly licensed health practitioner in this
2 Commonwealth would not be permitted to provide a service if:

3 (1) the health practitioner knows the limitation,
4 modification or restriction exists or that a similarly
5 licensed health practitioner in this Commonwealth would not
6 be permitted to provide the service; or

7 (2) from all the facts and circumstances known to the
8 health practitioner at the relevant time, a reasonable person
9 would conclude that the limitation, modification or
10 restriction exists or that a similarly licensed health
11 practitioner in this Commonwealth would not be permitted to
12 provide the service.

13 (f) Licensing boards.--In addition to the authority granted
14 by laws of this Commonwealth other than this chapter to regulate
15 the conduct of health practitioners, a licensing board or other
16 disciplinary authority in this Commonwealth:

17 (1) may impose administrative sanctions upon a health
18 practitioner licensed in this Commonwealth for conduct
19 outside of this Commonwealth in response to an out-of-State
20 emergency;

21 (2) may impose administrative sanctions upon a health
22 practitioner not licensed in this Commonwealth for conduct in
23 this Commonwealth in response to an in-State emergency; and

24 (3) shall report any administrative sanctions imposed
25 upon a health practitioner licensed in another state to the
26 appropriate licensing board or other disciplinary authority
27 in any other state in which the health practitioner is known
28 to be licensed.

29 (g) Discretion of licensing boards.--In determining whether
30 to impose administrative sanctions under subsection (f), a

1 licensing board or other disciplinary authority shall consider
2 the circumstances in which the conduct took place, including any
3 exigent circumstances, and the health practitioner's scope of
4 practice, education, training, experience and specialized skill.

5 § 7409. Relation to other laws.

6 (a) Emergency Management Assistance Compact.--This chapter
7 does not limit rights, privileges or immunities provided to
8 volunteer health practitioners by laws other than this chapter.
9 Except as otherwise provided in subsection (b), this chapter
10 does not affect requirements for the use of health practitioners
11 pursuant to the Emergency Management Assistance Compact.

12 (b) Emergency forces.--The agency, pursuant to the Emergency
13 Management Assistance Compact, may incorporate into the
14 emergency forces of this Commonwealth volunteer health
15 practitioners who are not officers or employees of this
16 Commonwealth or a political subdivision.

17 § 7410. Regulatory authority.

18 The agency and the department may promulgate regulations to
19 implement this chapter. In doing so, the agency and the
20 department shall consider regulations promulgated by similarly
21 empowered agencies in other states to promote uniformity of
22 application of this chapter and make the emergency response
23 systems in the various states reasonably compatible.

24 § 7411. Limitations on civil liability for volunteer health
25 practitioners.

26 Civil liability for volunteer health practitioners is limited
27 under 42 Pa.C.S. § 8340.2 (relating to limitations on civil
28 liability for volunteer health practitioners).

29 § 7412. Workers' compensation coverage.

30 (a) (Reserved).

1 (b) Status of volunteer health practitioners.--

2 Notwithstanding section 7706 (relating to compensation for
3 accidental injury), a volunteer health practitioner who provides
4 health or veterinary services pursuant to this chapter and who
5 is not otherwise eligible for benefits for injury or death under
6 the act of June 2, 1915 (P.L.736, No.338), known as the Workers'
7 Compensation Act, or the act of June 21, 1939 (P.L.566, No.284),
8 known as The Pennsylvania Occupational Disease Act, or under the
9 workers' compensation or occupational disease law of another
10 state may elect to be deemed an employee of this Commonwealth
11 for the purpose of receiving such benefits by making a claim in
12 accordance with the Workers' Compensation Act or The
13 Pennsylvania Occupational Disease Act. The average weekly wage
14 of a volunteer health practitioner claiming such benefits shall
15 be determined in the same manner as provided for auxiliary
16 police under section 2 of the act of May 17, 1957 (P.L.152,
17 No.71), entitled "A Supplement to the act of June 2, 1915
18 (P.L.736), entitled, as amended 'An act defining the liability
19 of an employer to pay damages for injuries received by an
20 employe in the course of employment; establishing an elective
21 schedule of compensation; providing procedure for the
22 determination of liability and compensation thereunder; and
23 prescribing penalties,' providing for the payment of
24 compensation to auxiliary police or their dependents."

25 (c) Administration.--The Department of Labor and Industry
26 shall promulgate regulations, enter into agreements with other
27 states or take other measures to facilitate the receipt of
28 benefits for injury or death under the Workers' Compensation Act
29 or The Pennsylvania Occupational Disease Act by volunteer health
30 practitioners who reside in other states, and may waive or

1 modify requirements for filing, processing and paying claims
2 that unreasonably burden the volunteer health practitioners. To
3 promote uniformity of application of this chapter with other
4 states that enact similar legislation, the Department of Labor
5 and Industry shall consult with and consider the approaches to
6 filing, processing and paying claims taken by agencies with
7 similar authority in other states.

8 (d) Definition.--As used in this section, the term "injury"
9 means a physical or mental injury or disease for which an
10 employee of this Commonwealth who is injured or contracts the
11 disease in the course of the employee's employment would be
12 entitled to benefits under the Workers' Compensation Act or The
13 Pennsylvania Occupational Disease Act.

14 § 7413. Uniformity of application and construction.

15 In applying and construing this chapter, consideration must
16 be given to the need to promote uniformity of the law with
17 respect to its subject matter among states that enact it.

18 Section 2. Section 7706(a) introductory paragraph of Title
19 35 is amended to read:

20 § 7706. Compensation for accidental injury.

21 (a) Benefits.--[All] Except as set forth in section 7412
22 (relating to workers' compensation coverage), all duly enrolled
23 emergency management volunteers, and such other volunteers as
24 the agency shall by regulation qualify, who are not eligible to
25 receive benefits under the Workmen's Compensation Laws shall be
26 entitled, except during a state of war or period of armed
27 conflict within the continental limits of the United States, to
28 the following benefits relating to injuries sustained while
29 actually engaged in emergency management activities and services
30 or in or en route to and from emergency management tests,

1 drills, exercises or operations authorized by the Pennsylvania
2 Emergency Management Agency and carried out in accordance with
3 rules and orders promulgated and adopted by the agency:

4 * * *

5 Section 3. Title 42 is amended by adding a section to read:

6 § 8340.2. Limitations on civil liability for volunteer health
7 practitioners.

8 (a) Limitation of liability.--Subject to subsection (b), a
9 volunteer health practitioner who does not receive compensation
10 that exceeds \$500 per year for providing health or veterinary
11 services pursuant to 35 Pa.C.S. Ch. 74 (relating to uniform
12 emergency volunteer health practitioners) is not liable for
13 damages for an act or omission of the volunteer health
14 practitioner in providing those services. Reimbursement of or
15 allowance for reasonable expenses or continuation of salary
16 while on leave is not compensation under this subsection.

17 (b) Exclusion.--This section does not limit the liability of
18 a volunteer health practitioner for:

19 (1) willful misconduct or wanton, grossly negligent,
20 reckless or criminal conduct;

21 (2) an intentional tort;

22 (3) breach of contract;

23 (4) a claim asserted by a host entity or by an entity
24 located in this Commonwealth or another state which employs
25 or uses the services of the volunteer health practitioner; or

26 (5) an act or omission relating to the operation of a
27 motor vehicle, vessel, aircraft or other vehicle.

28 (c) Information.--A person that, pursuant to 35 Pa.C.S. Ch.
29 74, operates, uses or relies upon information provided by a
30 volunteer health practitioner registration system under 35

1 Pa.C.S. § 7405 (relating to volunteer health practitioner
2 registration systems) is not liable for damages for an act or
3 omission relating to that operation, use or reliance unless the
4 act or omission is an intentional tort or is willful misconduct
5 or wanton, grossly negligent, reckless or criminal conduct.

6 (d) Applicability of subchapter.--In addition to the
7 protections provided in subsection (a), a volunteer health
8 practitioner providing health or veterinary services pursuant to
9 35 Pa.C.S. Ch. 74 is entitled to all the rights, privileges or
10 immunities provided by other applicable provisions of this
11 subchapter.

12 (e) Uniformity of application and construction.--In applying
13 and construing this section, consideration must be given to the
14 need to promote uniformity of the law with respect to its
15 subject matter among states that enact it.

16 (f) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection:

19 "Health practitioner." As defined in 35 Pa.C.S. § 7402
20 (relating to definitions).

21 "Volunteer health practitioner." As defined in 35 Pa.C.S. §
22 7402 (relating to definitions).

23 Section 4. This act shall apply as follows:

24 (1) The addition of 35 Pa.C.S. § 7412 shall apply to
25 claims for injuries which occur on or after the effective
26 date of this paragraph.

27 (2) The addition of 42 Pa.C.S. § 8340.2 shall apply to
28 causes of action which arise on or after the effective date
29 of this paragraph.

30 Section 5. This act shall take effect in 60 days.